



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/007,869	11/08/2001	Stewart Paton Granger	J6666(C)	6511

201 7590 10/12/2006

UNILEVER INTELLECTUAL PROPERTY GROUP  
700 SYLVAN AVENUE,  
BLDG C2 SOUTH  
ENGLEWOOD CLIFFS, NJ 07632-3100

EXAMINER

COTTON, ABIGAIL MANDA

ART UNIT	PAPER NUMBER
----------	--------------

1617

DATE MAILED: 10/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/007,869	<b>Applicant(s)</b> GRANGER ET AL.	
	<b>Examiner</b> Abigail M. Cotton	<b>Art Unit</b> 1617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on BPAI decision mailed on July 18, 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-7,9-12 and 14-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-2, 4-7, 9-12 and 14-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

A decision by the Board of Patent Appeals and Interferences reversing the rejections of record was mailed on July 18, 2006. This office action is intended to re-open prosecution to address matters that were raised by the Appeals Board for consideration by the Examiner. Claims 1-2, 4-7, 9-12 and 14-18 are pending in the application.

With regards to the standard procedure following a decision by the BPAI, it is noted that, according to 37 C.F.R. 1.198:

"[w]hen a decision by the Board of Patent Appeals and Interferences on appeal has become final for judicial review, prosecution of the proceeding before the primary examiner will not be reopened or reconsidered by the primary examiner except under the provisions of § 1.114 or § 41.50 of this title without the written authority of the Director, and then only for the consideration of matters not already adjudicated, sufficient cause being shown."

Thus, prosecution should not be reopened or reconsidered following a BPAI decision without a showing of sufficient cause.

The Examiner notes that the Appeals Board specifically directed the Examiner in the decision mailed July 18, 2006 to further review the prior art in light of the Soares reference. In particular, the Board suggested that "the examiner may wish to consider whether there is prior art teaching cleansers or sunscreen compositions ... that would

make the claims unpatentable in combination with Suares” (see page 9, final full paragraph of decision mailed July 18, 2006.) The Examiner has considered the prior art teachings as directed, and finds that sufficient grounds do indeed exist to reject the instant claims over Suares in combination with the teachings of the prior art. Thus, it is deemed that sufficient cause exists to re-open prosecution in the case.

For the purposes of clarity in the record, the Examiner notes that an erratum was mailed by the Appeals Board on July 31, 2006 to correct the section titled “Decision on Appeal” by deleting the reference to a new ground of rejection under 35 U.S.C. 112, second paragraph. Thus, as the reference to the new ground of rejection under 35 U.S.C. 112, second paragraph was clearly an unintended error, no such ground of rejection is being raised in the instant office action.

The Examiner also notes that the BPAI decision does not comment on the obviousness-type double patenting rejection made over U.S. Patent No. 5,759,556 to Burger in view of U.S. Patent No. 5,976,555 to Liu et al, U.S. Patent No. 5,941,116 to Suares et al. and the section of Remington’s Pharmaceutical Sciences, or the provisional obviousness-type double patenting rejection made over copending U.S. Patent Application Serial No. 10/008,067 in view of Liu et al, Suares et al and Remington’s. However, it is noted that the grounds for rejection given by the Examiner for the obviousness-type double patenting rejections was analogous to that made for the rejections under 35 U.S.C. 103(a). Thus, as the rejections of the claims under 35

Art Unit: 1617

U.S.C 103(a) have been reversed by the board, the obviousness type double patenting rejections are also being withdrawn. In particular, it is considered that one of ordinary skill in the art would not have had sufficient motivation to modify the compositions claimed in U.S. Patent No. 5,759,556 or copending U.S. Patent Application Serial No. 10/008,067 to arrive at the instant two compartment product and two part composition.

The claims are being newly rejected as follows.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 4-7, 9-12, 14-5 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,914,116 to Soares et al, issued June 22, 1999, in view of U.S Patent No. 5,965,518 to Nakatsu et al, published October 12, 1999, and further in view of U.S. Patent No. 5,976,555 to Liu et al, issued November 2, 1999.

Soares et al. teaches a method for a skin treatment regime and product that includes a first composition containing at least one active and functioning to impart a

first benefit to skin, and a second composition that includes a second different active and imparts a second benefit to skin (see abstract, in particular.) Soares et al. teaches that the first and second compositions are stored in respective separate containers, which are joined together (see abstract and column 2, lines 1-14, in particular.) Soares et al. teaches that the two compositions are kept separate because single formulations often compromise the performance of the severally combined actives (see column 1, lines 15-25, in particular.) Accordingly, Soares et al. teaches providing a first composition in a first compartment, and a second composition in a second compartment, where the first and second compartments are joined together, as recited in claim 1.

With regards to the types of compositions provided, Soares et al. provides examples of first compositions and second compositions where the first composition is a cleanser and the second composition is an anti-acne preparation (see Table I, second entry, in particular), and also where the first composition is a sunscreen and the second composition is an anti-wrinkle cream (see Table I, tenth entry, in particular.) Soares et al. teaches that anti-wrinkle compositions and anti-acne preparations can contain actives such as retinoids, where suitable retinoids include retinol, retinoic acid or C<sub>1</sub>-C<sub>20</sub> esters of retinol and retinoic acid (see column 4, lines 20-25 and 59-65 and column 5, lines 12-16, in particular.) Soares et al. teaches levels of retinoids in the compositions may be from 0.00001 to 2% (see column 4, lines 60-65, in particular), which is an amount that overlaps with that recited in claim 1. Furthermore, it is considered that one

Art Unit: 1617

of ordinary skill in the art at the time the invention was made would have found it obvious to vary and/or optimize the amount of the retinoid provided in the anti-acne or anti-wrinkle composition, according to the guidance provided by Soares et al, to provide a composition having desired properties. It is noted that "[W]here the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation." In re Aller, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955.) Soares et al. also exemplifies a sunscreen composition suitable for the two-composition product having a fragrance (see column 8, Table II, in particular.)

Accordingly, Soares et al. teaches providing an anti-wrinkle or anti-acne composition corresponding to the first composition as recited in claim 1, and teaches providing the first composition and a second composition (such as a sunscreen or cleanser composition) in first and second compartments that are joined, as recited in claim 1.

Soares et al. does not specifically teach a second composition comprising the specific retinoid booster, such as citral, citronella, etc, as recited in claim 1. Soares et al. also does not specifically teach that the compartment having the retinoid keeps the retinoid composition out of contact with oxygen and is made out of aluminum, as recited in claim 1.

Nakatsu et al. teaches a fragrance composition that can include non-aromatic terpenoid compounds such as citral, citronellol, geraniol and linalool, and that is suitable for various products (see abstract, and column 3, lines 25-45, in particular), and thus teaches the retinoid boosters as recited in claim 1. Nakatsu et al. teaches that the fragrance composition can be included in a skin cream, hand and body lotion, sunscreen, and other compositions (see claim 9, in particular.) Thus, Nakatsu et al. teaches fragrances and fragrance compositions that are suitable for topical application to skin and can be used in topical formulations such as sunscreens.

Accordingly, it is considered that one of ordinary skill in the art at the time the invention was made would have found it obvious to provide the fragrances and fragrance compositions of Nakatsu et al. in the compositions of Soares et al, and in particular in the sunscreen composition of Soares et al., because Soares et al. exemplifies such sunscreens have fragrances, and Nakatsu et al. teaches fragrances that are suitable for topical compositions such as sunscreens. Thus, one of ordinary skill in the art would have been motivated to provide the fragrances in the composition of Soares et al. with the expectation of providing a fragrance that is suitable for topical use and that is known to be suitable for combination with sunscreen compositions.

Regarding the amount of the fragrances provided, as recited in claim 1, it is noted that Nakatsu et al. teaches that the fragrance composition itself can comprise between 20 and 80% non-aromatic terpenoids, such as those claimed (see abstract, in



Art Unit: 1617

particular), and Soares et al. exemplifies a composition having 0.30% of a fragrance (see Table II, in particular), which is an amount that meets the limitation of the claim. Accordingly, it is considered that one of ordinary skill in the art at the time the invention was made would have found it obvious to vary and/or optimize the amount of the fragrance provided in the composition, according to the guidance provided by Nakatsu et al, to provide a composition having desired properties. It is noted that "[W]here the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation." *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955.)

Accordingly, the teachings of Soares et al. and Nakatsu et al. render obvious a skin care product comprising first and second compartments for storing compositions, the compartments being joined, where the product comprises an anti-wrinkle cream having the retinoid first composition as claimed, and a sunscreen having the retinoid booster second composition (i.e. comprising fragrances), as recited in claim 1.

The combination of Soares et al. and Nakatsu et al. does not render obvious providing a compartment that keeps the retinoid composition out of contact with oxygen and is made out of aluminum, as recited in claim 1.

Liu et al. teaches that it is known that retinoids such as retinol, retinal and retinyl esters quickly lose their activity and oxidize in conventional skin care products (see

Art Unit: 1617

column 2, lines 35-55, in particular). Liu et al. teaches that the oxidation of skin care compositions can be reduced by excluding oxygen permeation, particularly by fabricating the container walls from aluminum (see column 12, lines 40-68, in particular), and thus teaches providing an aluminum container that keeps the retinoid composition out of contact with oxygen, as recited in claim 1, and thus also provides a “stable” skin care product.

Accordingly, it is considered that one of ordinary skill in the art at the time the invention was made would have found it obvious to modify the two compartment product teachings of Soares et al. to provide a compartment made of aluminum for the retinoid composition, because Soares et al. teaches the desirability of providing the two-compartment product to maximize the effectiveness of the separate compositions, and teaches providing retinoids in one of the compositions, while Liu et al. teaches that it is known that retinoids such as those taught by Suarez et al. can easily oxidize and lose their effectiveness, and that such oxidation can be reduced by providing aluminum containers. Thus, it is considered that one of ordinary skill in the art would have been motivated to provide the aluminum compartment to store the retinoid composition in the product of Soares et al, with the expectation of improving the effectiveness of the retinoid composition. Accordingly, claim 1 is obvious over the teachings of Soares et al. in view of Nakatsu et al. and further in view of Liu et al.

Regarding the recitation of the product “thereby avoiding chemical degradation of said first composition that would be caused by contact with said second composition, it is noted that as combined teachings of Soares et al, Nakatsu et al. and Liu et al. renders the claimed composition obvious, the property of such a claimed composition will also be rendered obvious by the prior art teachings, since the properties, namely the avoidance of degradation, are inseparable from its composition. Therefore, if the prior art teaches the composition or renders the composition obvious, then the properties are also taught or rendered obvious by the prior art. In re Spada, 911 F.2d 705, 709, 15 USPQ 1655, 1658 (Fed. Cir. 1990.) See MPEP 2112.01. The burden is shifted to Applicant to show that the prior art product does not possess or render obvious the same properties as the instantly claimed product. It is furthermore noted that in the BPAI decision mailed on July 18, 2006, the Board determined that the “thereby clause” is not construed as being a limitation, as it only states the results achieved by the claimed product (see page 4, third full paragraph of decision mailed on July 18, 2006.)

Regarding the recitation that the components of the second composition act are “retinoid boosters”, as recited in the claims, it is noted that the retinoid boosting activity of a compound is a property thereof, and a product and its properties are inseparable. *In re Papesch*, 315 F.2d 381, 137 USPQ 43 (CCPA 1963). Accordingly, the composition rendered obvious by the combined references would, absent evidence to the contrary, meet the limitations pertaining to the retinoid boosting activity of the compound used therein.

Regarding claims 6 and 11, Soares et al, Nakatsu et al. and Liu et al. render obvious a product having first and second compartment that are joined together, the first composition keeping out oxygen and being made of aluminum, with a first composition having a retinoid as recited in the claims, and a second composition having a fragrance corresponding to the retinoid boosters as recited in the claims, as has been discussed above. While the references do not specifically teach providing the amount ranges of retinoid and retinoid booster as recited in the claims, the references do teach providing amounts that are close to and/or overlap with the amounts as recited. Accordingly, it is considered that one of ordinary skill in the art at the time the invention was made would have found it obvious to vary and/or optimize the amount of retinoids and/or fragrances provided in the composition, according to the guidance provided by Soares et al., Nakatsu et al and Liu et al, to provide a composition having desired properties. It is noted that "[W]here the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation." In re Aller, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955.)

Regarding claims 2, 7 and 12, it is noted that Nakatsu et al. teaches the fragrances citral, citronellol and linalool, among others, may be provided in the composition, while the teachings of Soares et al. and Nakatsu et al. render obvious providing a fragrance composition in the amount as claimed, and thus the references

teach that at least two fragrances (retinoid boosters) may be provided, as recited in the claims.

Regarding the methods of claims 4-5, 9-10 and 14-15, Soares et al. teaches that the retinoid may be a part of an anti-acne composition, and also acts as an anti-wrinkle agent (see column 4-5, in particular), and thus teaches providing the composition on skin for the treatment of acne and wrinkles. Soares et al. also teaches that the compositions can comprise emollients and humectants (see column 5, lines 35-40, in particular), which moisturize and condition the skin. Furthermore, as the combined teachings of Soares et al, Nakatsu et al. and Liu et al. renders the claimed composition obvious, the property of such a claimed composition will also be rendered obvious by the prior art teachings, since the properties, namely the conditioning of skin upon application, or the mimicking of the effect of retinoic acid such as the treatment of acne or wrinkles, upon application to skin, are inseparable from its composition. Therefore, if the prior art teaches the composition or renders the composition obvious, then the properties are also taught or rendered obvious by the prior art. In re Spada, 911 F.2d 705, 709, 15 USPQ 1655, 1658 (Fed. Cir. 1990.) See MPEP 2112.01. The burden is shifted to Applicant to show that the prior art product does not possess or render obvious the same properties as the instantly claimed product. Thus, the methods as taught by Soares et al, Nakatsu et al. and Liu et al. necessarily result in skin conditioning, treatment of acne, wrinkles, etc, as recited in the claims.

Regarding claim 17, Soares et al. teaches that the composition can comprise an emollient such as esters of fatty acids and fatty acids (see column 5 line 35 through column 6, line 60, in particular), and thus teaches the emollients as claimed. Regarding the amounts of the emollients, Soares et al. teaches that the emollients can be provided as a part of the carrier, which can be in an amount of from 30 to 99.9% (see column 5, lines 35-42, in particular.) Accordingly, it is considered that one of ordinary skill in the art at the time the invention was made would have found it obvious to vary and/or optimize the amount of emollient provided in the composition, according to the guidance provided by Soares et al, to provide a composition having desired properties. It is noted that "[W]here the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation." In re Aller, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955.)

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,914,116 to Soares et al, issued June 22, 1999, in view of U.S Patent No. 5,965,518 to Nakatsu et al, published October 12, 1999, and further in view of U.S. Patent No. 5,976,555 to Liu et al, issued November 2, 1999, as applied to claims 1-2, 4-7, 9-12, 14-5 and 17 above, and further in view of JP 04183797 to Kobayashi et al, published June 30, 1992.

Soares et al, Nakatsu et al. and Liu et al, are applied as discussed for claims 1-2, 4-7, 9-12, 14-5 and 17 above, and render obvious a product having first and second

Art Unit: 1617

compartment that are joined together, the first composition keeping out oxygen and being made of aluminum, with a first composition having a retinoid as recited in the claims, and a second composition having a fragrance corresponding to the retinoid boosters as recited in the claims. Specifically, Soares et al, Nakatsu et al. and Liu et al. render obvious a product with anti-wrinkle composition having the retinoid, and a sunscreen composition having the fragrances (retinoid boosters), as recited in the claims.

The references do not specifically teach providing a retinoid booster that is alpha-ionone, as recited in claim 18.

Kobayashi et al. teaches compositions for formulation into cosmetics containing perfumes (see abstract, in particular.) Kobayashi et al. teaches that suitable perfumes for incorporation into cosmetics include ionone (alpha-ionone) (see Constitution section, in particular.)

Accordingly, it is considered that one of ordinary skill in the art at the time the invention was made would have found it obvious to provide the ionone fragrance of Kobayashi et al. in the compositions of Soares et al, Nakatsu et al, and Liu et al, and in particular in the sunscreen composition of Soares et al, Nakatsu et al, and Liu et al, because Soares et al, Nakatsu et al, and Liu et al. teach such sunscreens having fragrances, and Kobayashi et al. teaches that ionone is a fragrance that is suitable for

Art Unit: 1617

cosmetic formulations. Thus, one of ordinary skill in the art would have been motivated to provide the fragrances in the composition of Soares et al, Nakatsu et al, and Liu et al. with the expectation of providing a fragrance in the composition that is suitable for cosmetic use.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,914,116 to Soares et al, issued June 22, 1999, in view of U.S Patent No. 5,965,518 to Nakatsu et al, published October 12, 1999, and further in view of U.S. Patent No. 5,976,555 to Liu et al, issued November 2, 1999, as applied to claims 1-2, 4-7, 9-12, 14-5 and 17 above, and further in view of JP 04183797 to Kobayashi et al, published June 30, 1992, and U.S. Patent No. 5,582,832 to Pillai et al, issued December 10, 1996.

Soares et al, Nakatsu et al. and Liu et al, are applied as discussed for claims 1-2, 4-7, 9-12, 14-5 and 17 above, and render obvious a product having first and second compartment that are joined together, the first composition keeping out oxygen and being made of aluminum, with a first composition having a retinoid as recited in the claims, and a second composition having a fragrance corresponding to the retinoid boosters as recited in the claims. Specifically, Soares et al, Nakatsu et al. and Liu et al. render obvious a product with anti-wrinkle composition having the retinoid, and a sunscreen composition having the fragrances (retinoid boosters), as recited in the claims.



The references do not specifically teach providing a retinoid booster that is climbazole in combination with a second retinoid booster selected from the groups consisting of alpha-ionone and damascenone, as recited in claim 16.

The teachings of Kobayashi et al. have been discussed for claim 18 above, and teach providing ionone as a fragrance in cosmetic compositions. Accordingly, it is considered that one of ordinary skill in the art at the time the invention was made would have found it obvious to provide the ionone fragrance of Kobayashi et al. in the compositions of Soares et al, Nakatsu et al, and Liu et al, and in particular in the sunscreen composition of Soares et al, Nakatsu et al, and Liu et al, because Soares et al, Nakatsu et al, and Liu et al. teach such sunscreens having fragrances, and Kobayashi et al. teaches that ionone is a fragrance that is suitable for cosmetic formulations. Thus, one of ordinary skill in the art would have been motivated to provide the fragrances in the composition of Soares et al, Nakatsu et al, and Liu et al. with the expectation of providing a fragrance in the composition that is suitable for cosmetic use.

Soares et al, Nakatsu et al, Liu et al. and Kobayashi et al. do not specifically teach providing climbazole in the composition, as recited in claim 16.

Pillai et al. teaches compositions for treating skin that contain an azole ingredient (see abstract, in particular.) Pillai et al. teaches that suitable azoles include climbazole

Art Unit: 1617

(see column 4, lines 1-21, in particular), and further teaches that the azoles can be formulated into compositions including sunscreen compositions (see column 11, lines 34-55, in particular.) Pillai et al. even exemplifies a sun cream formulation comprising an azole (see Example 8, in particular.)

Accordingly, it is considered that one of ordinary skill in the art at the time the invention was made would have found it obvious to provide the climbazole of Pillai et al. in the composition of Soares et al, Nakatsu et al, Liu et al. and Kobayashi et al, because Soares et al, Nakatsu et al, Liu et al. and Kobayashi et al. teach a product having a topical sunscreen formulation, and Pillai et al. teaches that azole compositions having azoles such as climbazole can be formulation into sunscreens. Thus, one of ordinary skill would have been motivated to provide the climbazole in the sunscreen composition of Soares et al, Nakatsu et al, Liu et al, and Kobayashi et al, with the expectation of providing a suitable ingredient for the sunscreen formulation.

### ***Conclusion***

No claims are allowed.


Please see the accompanying PTO 892 form for a listing of the prior art made of record and not relied upon that is considered pertinent to applicant's disclosure.

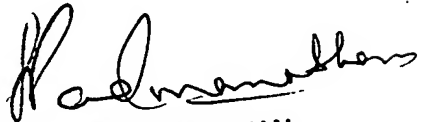
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Abigail M. Cotton whose telephone number is (571) 272-8779. The examiner can normally be reached on 9:30-6:00, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreenivasan Padmanabhan can be reached on (571) 272-0629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AMC

  
**BRUCE KISLIUK, DIRECTOR**  
TECHNOLOGY CENTER 1600

  
**SREENI PADMANABHAN**  
SUPERVISORY PATENT EXAMINER